

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

CORI RIGSBY and
KERRI RIGSBY

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 1:06CV433-LTS-RHW

STATE FARM INSURANCE COMPANY et al

DEFENDANTS

ORDER DENYING MOTION TO LIFT STAY

Before the Court is Plaintiffs' [47] Motion to Lift the Stay of Discovery in the above-captioned matter. This Court issued an [26] Order granting the United States until January 31, 2008, to elect whether to intervene in this qui tam action filed pursuant to the False Claims Act, 31 U.S.C. § 3729 *et seq.* Plaintiffs argue that the stay should be lifted and that Plaintiffs should be permitted to serve the complaint and commence discovery at this time. Plaintiffs argue that (1) counsel in other litigation are conducting discovery aimed at discovery the contents of Plaintiffs' evidentiary disclosures to the Government; (2) ongoing discovery in other civil actions obviates the need for a discovery stay in this matter; and (3) Plaintiffs are impeded in their ability to defend other actions by the maintenance of the discovery stay. The Government counters that lifting the stay would not be appropriate until such time as the Government elects whether to intervene.

Under the provisions of the False Claims Act, "[i]f the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action." 31 U.S.C. § 3730(c)(3). Thus far, the Government has not elected whether to intervene. Pursuant to the Court's Order of August 7, 2007, the Government has until January 31, 2008, to make that

election. The Government represents that it is actively pursuing the civil investigation in order to make that determination.

Whether to maintain the stay in this action does not turn solely on the questions of whether the civil and criminal proceedings sufficiently overlap or whether sufficient safeguards can be implemented to protect the criminal proceedings. Rather, the primary basis for the maintaining the stay is the very procedural posture of this case, *i.e.* the Government's pending decision to intervene or not to intervene. The primary thrust of Plaintiffs' motion relates to the ongoing discovery battles in lawsuits other than the present action. The Court does not find Plaintiffs' offered justification compelling.

IT IS THEREFORE ORDERED AND ADJUDGED that the [47] Motion to Lift the Stay is DENIED.

SO ORDERED, this the 4th day of December, 2007.

s/ Robert H. Walker
UNITED STATES MAGISTRATE JUDGE